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Attorneys for Defendant JAMES SEXTON

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ANTHONY BROWN,

Plaintiff,

vs.

COUNTY OF LOS ANGELES,
SHERIFF LEROY D. BACA,
UNDERSHERIFF PAUL TANAKA,
CAPTAIN WILLIAM CAREY,
LIEUTENANT GREGORY
THOMPSON, LIEUTENANT
STEPHEN LEAVINS, SERGEANT
SCOTT CRAIG, SERGEANT
MARICELLA LONG, DEPUTY
GERARD SMITH, DEPUTY MICKEY
MANZO, DEPUTY JAMES SEXTON,
individually and in their official
capacities, and DOES 1 through 10,
inclusive,

Defendants.

Case No.: 2:15-cv-02162 DDP(Ex)

(Hon. Dean D. Pregerson)

**DEFENDANT JAMES SEXTON'S
ANSWER TO PLAINTIFF'S
COMPLAINT FOR DAMAGES;
DEMAND FOR JURY TRIAL**

Action Filed: March 24, 2015

(Assigned to Magistrate Judge Charles
F. Eick for all proceedings)

1 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD HEREIN:

2 Defendant JAMES SEXTION (hereinafter referred to as “answering
3 defendant”) answers the Complaint of Plaintiff ANTHONY BROWN and
4 otherwise pleads as follows:

5 1. In answer to paragraph 1 of plaintiff’s Complaint, answering
6 defendant neither admits nor denies the allegations contained therein on the basis
7 that the Complaint speaks for itself.

8 2. In answer to paragraph 2 of plaintiff’s Complaint, answering
9 defendant admits jurisdiction is proper but denies the remaining allegations
10 because they require an interpretation of law.

11 3. In answer to paragraph 3 of plaintiff’s Complaint, answering
12 defendant admits venue is proper.

13 4. In answer to paragraph 4 of plaintiff’s Complaint, answering
14 defendant is without sufficient knowledge or information to form a belief as to
15 the truth of the allegations contained in said paragraph, and on that basis denies
16 said allegations.

17 5. In answer to paragraph 5 of plaintiff’s Complaint, answering
18 defendant denies the allegations contained therein.

19 6. In answer to paragraph 6 of plaintiff’s Complaint, answering
20 defendant admits that plaintiff is an individual that was in the custody of the
21 County of Los Angeles Sheriff’s Department during the time in question.
22 Answering defendant denies the remainder of the paragraph based on lack of
23 sufficient information and belief.

24 7. In answer to paragraph 7 of plaintiff’s Complaint, answering
25 defendant admits the allegations contained therein.

26 8. In answer to paragraph 8 of plaintiff’s Complaint, answering
27 defendant denies each and every allegation in said paragraph pertaining to this
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1 answering defendant. This answering defendant has no information or belief as
2 to other parties referenced in the paragraph, and on that basis denies said
3 allegations.

4 9. In answer to paragraph 9 of plaintiff's Complaint, answering
5 defendant denies the allegations contained therein.

6 10. In answer to paragraph 10 of plaintiff's Complaint, answering
7 defendant denies each and every allegation in said paragraph.

8 11. In answer to paragraph 11 of plaintiff's Complaint, answering
9 defendant admits or denies the referenced paragraphs in the same manner as they
10 were originally responded to.

11 12. In answer to paragraph 12 of plaintiff's Complaint, answering
12 defendant admits that plaintiff so asserts but denies that any violation of rights
13 occurred.

14 13. In answer to paragraph 13 of plaintiff's Complaint, answering
15 defendant denies any conduct that subjected plaintiff to cruel and unusual
16 punishment. Answering defendant admits that plaintiff was moved to different
17 cells in the jail but denies the remaining allegations of the paragraph.

18 14. In answer to paragraph 14 of plaintiff's Complaint, answering
19 defendant denies the allegations contained therein.

20 15. In answer to paragraph 15 of plaintiff's Complaint, answering
21 defendant denies the allegations contained therein.

22 16. In answer to paragraph 16 of plaintiff's Complaint, answering
23 defendant denies the allegations contained therein.

24 17. In answer to paragraph 17 of plaintiff's Complaint, answering
25 defendant neither denies nor admits the allegations contained in said paragraph
26 because they do not apply to him.
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1 18. In answer to paragraph 18 of plaintiff's Complaint, answering
2 defendant denies the allegations contained therein.

3 19. In answer to paragraph 19 of plaintiff's Complaint, answering
4 defendant neither denies nor admits the allegations contained in said paragraph
5 because they do not apply to him.

6 20. In answer to paragraph 20 of plaintiff's Complaint, answering
7 defendant neither denies nor admits the allegations contained in said paragraph
8 because they do not apply to him.

9 21. In answer to paragraph 21 of plaintiff's Complaint, answering
10 defendant neither denies nor admits the allegations contained in said paragraph
11 because they do not apply to him.

12 22. In answer to paragraph 22 of plaintiff's Complaint, answering
13 defendant neither denies nor admits the allegations contained in said paragraph
14 because they do not apply to him.

15 23. In answer to paragraph 23 of plaintiff's Complaint, answering
16 defendant neither denies nor admits the allegations contained in said paragraph
17 because they do not apply to him.

18 24. In answer to paragraph 24 of plaintiff's Complaint, answering
19 defendant neither denies nor admits the allegations contained in said paragraph
20 because they do not apply to him.

21 25. In answer to paragraph 25 of plaintiff's Complaint, answering
22 defendant denies that plaintiff was deprived of any such rights.

23 26. In answer to paragraph 26 of plaintiff's Complaint, answering
24 defendant denies that plaintiff is so entitled.

25 27. In answer to paragraph 27 of plaintiff's Complaint, answering
26 defendant denies the allegations contained therein.
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1 28. In answer to paragraph 28 of plaintiff's Complaint, answering
2 defendant denies plaintiff is so entitled.

3 29. In answer to paragraph 29 of plaintiff's Complaint, answering
4 defendant admits or denies the referenced paragraphs in the same manner as they
5 were originally responded to.

6 30. In answer to paragraph 30 of plaintiff's Complaint, answering
7 defendant neither denies nor admits the allegations contained in said paragraph
8 because they do not apply to him.

9 31. In answer to paragraph 31 of plaintiff's Complaint, answering
10 defendant neither denies nor admits the allegations contained in said paragraph
11 because they do not apply to him.

12 32. In answer to paragraph 32 of plaintiff's Complaint, answering
13 defendant neither denies nor admits the allegations contained in said paragraph
14 because they do not apply to him.

15 33. In answer to paragraph 33 of plaintiff's Complaint, answering
16 defendant neither denies nor admits the allegations contained in said paragraph
17 because they do not apply to him.

18 34. In answer to paragraph 34 of plaintiff's Complaint, answering
19 defendant neither denies nor admits the allegations contained in said paragraph
20 because they do not apply to him.

21 35. In answer to paragraph 35 of plaintiff's Complaint, answering
22 defendant neither denies nor admits the allegations contained in said paragraph
23 because they do not apply to him.

24 36. In answer to paragraph 36 of plaintiff's Complaint, answering
25 defendant neither denies nor admits the allegations contained in said paragraph
26 because they do not apply to him.
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1 37. In answer to paragraph 37 of plaintiff's Complaint, answering
2 defendant neither denies nor admits the allegations contained in said paragraph
3 because they do not apply to him.

4 38. In answer to paragraph 38 of plaintiff's Complaint, answering
5 defendant neither denies nor admits the allegation contained in said paragraph
6 because it does not apply to him.

7 39. In answer to paragraph 39 of plaintiff's Complaint, answering
8 defendant admits or denies the referenced paragraphs in the same manner as they
9 were originally responded to.

10 40. In answer to paragraph 40 of plaintiff's Complaint, answering
11 defendant admits the allegations contained therein.

12 41. In answer to paragraph 41 of plaintiff's Complaint, answering
13 defendant denies the allegations contained therein.

14 42. In answer to paragraph 42 of plaintiff's Complaint, answering
15 defendant denies the allegations contained therein.

16 43. In answer to paragraph 43 of plaintiff's Complaint, answering
17 defendant denies the allegations contained therein.

18 44. In answer to paragraph 44 of plaintiff's Complaint, answering
19 defendant denies the allegations contained therein.

20 45. In answer to paragraph 45 of plaintiff's Complaint, answering
21 defendant denies the allegations contained therein.

22 46. In answer to paragraph 46 of plaintiff's Complaint, answering
23 defendant denies the allegations contained therein.

24 47. In answer to paragraph 47 of plaintiff's Complaint, answering
25 defendant admits or denies the referenced paragraphs in the same manner as they
26 were originally responded to.

1 48. In answer to paragraph 48 of plaintiff's Complaint, answering
2 defendant admits that plaintiff so asserts but denies any violation of rights.

3 49. In answer to paragraph 49 of plaintiff's Complaint, answering
4 defendant admits that he became aware that plaintiff was an informant but denies
5 the remaining allegations contained in the paragraph.

6 50. In answer to paragraph 50 of plaintiff's Complaint, answering
7 defendant denies the allegations contained therein.

8 51. In answer to paragraph 51 of plaintiff's Complaint, answering
9 defendant denies any retaliatory action against plaintiff. This answering
10 defendant has no information as to the FBI's information or statements made to
11 plaintiff and on that basis denies the allegations contained in the paragraph.

12 52. In answer to paragraph 52 of plaintiff's Complaint, answering
13 defendant denies any retaliatory conduct.

14 53. In answer to paragraph 53 of plaintiff's Complaint, answering
15 defendant denies any retaliatory conduct and denies that plaintiff suffered any
16 damages.

17 54. In answer to paragraph 54 of plaintiff's Complaint, answering
18 defendant denies the allegations contained therein.

19 55. In answer to paragraph 55 of plaintiff's Complaint, answering
20 defendant denies the allegations contained therein.

21 56. In answer to paragraph 56 of plaintiff's Complaint, answering
22 defendant denies the allegations contained therein.

23 57. In answer to paragraph 57 of plaintiff's Complaint, answering
24 defendant admits or denies the referenced paragraphs in the same manner as they
25 were originally responded to.

26 58. In answer to paragraph 58 of plaintiff's Complaint, answering
27 defendant admits that plaintiff is so asserting but denies any such violations.
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1 59. In answer to paragraph 59 of plaintiff's Complaint, answering
2 defendant neither denies nor admits the allegations contained in said paragraph
3 because they do not apply to him.

4 60. In answer to paragraph 60 of plaintiff's Complaint, answering
5 defendant lacks information or belief as to the allegation contained therein, and
6 on that basis, denies them.

7 61. In answer to paragraph 61 of plaintiff's Complaint, answering
8 defendant lacks information or belief as to the allegation contained therein, and
9 on that basis, denies them.

10 62. In answer to paragraph 62 of plaintiff's Complaint, answering
11 defendant neither denies nor admits the allegations contained in said paragraph
12 because they do not apply to him.

13 63. In answer to paragraph 63 of plaintiff's Complaint, answering
14 defendant lacks information or belief as to the allegation contained therein, and
15 on that basis, denies them.

16 64. In answer to paragraph 64 of plaintiff's Complaint, answering
17 defendant denies the allegations contained in said paragraph.

18 65. In answer to paragraph 65 of plaintiff's Complaint, answering
19 defendant denies the allegations contained in said paragraph.

20 66. In answer to paragraph 66 of plaintiff's Complaint, answering
21 defendant denies the allegations contained in said paragraph.

22 67. In answer to paragraph 67 of plaintiff's Complaint, answering
23 defendant admits or denies the referenced paragraphs in the same manner as they
24 were originally responded to.

25 68. In answer to paragraph 68 of plaintiff's Complaint, answering
26 defendant admits that plaintiff so asserts but denying any such conspiracy.
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1 69. In answer to paragraph 69 of plaintiff's Complaint, answering
2 defendant denies any such conspiracy existed, and on that basis, denies the
3 allegations contained in said paragraph.

4 70. In answer to paragraph 70 of plaintiff's Complaint, answering
5 defendant denies the allegations contained in said paragraph.

6 71. In answer to paragraph 71 of plaintiff's Complaint, answering
7 defendant denies the allegations contained in said paragraph.

8 **AFFIRMATIVE DEFENSES**

9 **FIRST AFFIRMATIVE DEFENSE**

10 As a separate and distinct affirmative defense, answering defendant alleges
11 that plaintiff's Complaint fails to state facts sufficient to constitute a cause of
12 action upon which relief can be granted.

13 **SECOND AFFIRMATIVE DEFENSE**

14 As a separate and distinct affirmative defense, answering defendant alleges
15 that his acts or omissions were discretionary, requiring personal deliberation,
16 decision and judgment which were done honestly, reasonably and in good faith,
17 and by virtue of which he is immune from liability.

18 **THIRD AFFIRMATIVE DEFENSE**

19 As a separate and distinct affirmative defense, answering defendant alleges
20 that plaintiff's Complaint, and each and every claim contained therein, and/or any
21 amendments thereto, is barred by the California Government Tort Claims Act.

22 **FOURTH AFFIRMATIVE DEFENSE**

23 As a separate and distinct affirmative defense, plaintiff's claims against
24 answering defendant are barred as answering defendant has qualified immunity
25 from the allegations set forth in plaintiff's Complaint.

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1 **FIFTH AFFIRMATIVE DEFENSE**

2 As a separate and distinct affirmative defense, answering defendant alleges
3 that he is a state official acting in his official capacity, and is therefore not liable
4 for damages under title 42 U.S.C. § 1983.

5 **SIXTH AFFIRMATIVE DEFENSE**

6 As a separate and distinct affirmative defense, answering defendant alleges
7 the Complaint, and each claim contained therein, is barred on the grounds that
8 this answering defendant was not the cause in fact of any alleged damage, injury
9 or loss to plaintiff, if any.

10 **SEVENTH AFFIRMATIVE DEFENSE**

11 As a separate and distinct affirmative defense, answering defendant alleges
12 that the Complaint and the relief sought therein are barred by the Prison
13 Litigation Reform Act (42 U.S.C. 1997 § et seq.).

14 **EIGHTH AFFIRMATIVE DEFENSE**

15 As a separate and distinct affirmative defense, answering defendant alleges
16 that plaintiff's Complaint, and each and every claim contained therein, and/or any
17 amendments thereto, is barred by the applicable statute of limitations.

18 **NINTH AFFIRMATIVE DEFENSE**

19 As a separate and distinct affirmative defense, answering defendant alleges
20 that plaintiff's alleged damages, if any, were caused by persons and/or entities
21 other than this answering defendant who failed to exercise ordinary care, caution
22 or prudence and were negligent in their dealing with plaintiff, and that at all
23 times, said persons or entities were acting without consent, knowledge and/or
24 ratification of this answering defendant.

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1 **TENTH AFFIRMATIVE DEFENSE**

2 As a separate and distinct affirmative defense, answering defendant alleges
3 that he is not liable for injuries and damages, if any, which were the result of the
4 exercise of the discretion vested in public officers and employees.

5 **ELEVENTH AFFIRMATIVE DEFENSE**

6 As a separate and distinct affirmative defense, answering defendant alleges
7 that plaintiff's Complaint, and each claim contained therein, is barred pursuant to
8 the equitable doctrine of laches.

9 **TWELFTH AFFIRMATIVE DEFENSE**

10 As a separate and distinct affirmative defense, answering defendant alleges
11 that plaintiff's Complaint, and each claim contained therein, is barred pursuant to
12 the doctrine of unclean hands.

13 **THIRTEENTH AFFIRMATIVE DEFENSE**

14 As a separate and distinct affirmative defense, answering defendant alleges
15 that plaintiff is estopped by his own acts or omissions from recovery against
16 answering defendant for the claims asserted in the Complaint.

17 **FOURTEENTH AFFIRMATIVE DEFENSE**

18 As a separate and distinct affirmative defense, answering defendant alleges
19 that he is not liable by operation of California *Government Code* §§ 815.2(b) and
20 820.2, in that the injuries or damages, if any, were the result of the exercise of the
21 discretion vested in public officers and employees.

22 **FIFTEENTH AFFIRMATIVE DEFENSE**

23 As a separate and distinct affirmative defense, answering defendant alleges
24 that he is not liable by operation of California *Government Code* §§ 815.2(b) and
25 820.4 for the execution or enforcement of the law by public officers or employees
26 exercising due care.

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1 **SIXTEENTH AFFIRMATIVE DEFENSE**

2 As a separate and distinct affirmative defense, answering defendant alleges
3 that he is not liable for injuries and damages alleged by plaintiff by operation of
4 California *Government Code* §§ 815.2(b) and 820.6.

5 **SEVENTEENTH AFFIRMATIVE DEFENSE**

6 As a separate and distinct affirmative defense, answering defendant alleges
7 that he is not liable for injuries or damages alleged by plaintiff pursuant to statute
8 by operation of California *Government Code* § 820.8 for the acts or omissions of
9 others.

10 **EIGHTEENTH AFFIRMATIVE DEFENSE**

11 As a separate and distinct affirmative defense, answering defendant alleges
12 that he is not liable for the failure to discharge a mandatory duty in that he
13 exercised reasonable diligence in the discharge of all duties as provided by
14 California *Government Code* § 815.6.

15 **NINETEENTH AFFIRMATIVE DEFENSE**

16 As a separate and distinct affirmative defense, answering defendant alleges
17 he is not liable pursuant to statute by operation of California *Government Code* §
18 818.2 or 821 for the adoption or failure to adopt or enforce any law.

19 **TWENTIETH AFFIRMATIVE DEFENSE**

20 As a separate and distinct affirmative defense, answering defendant alleges
21 that he is not liable pursuant to statute by operation of California *Government*
22 *Code* § 818.8 or 822.2 for misrepresentations by employees.

23 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

24 As a separate and distinct affirmative defense, answering defendant alleges
25 that the plaintiff's claims are barred pursuant to California *Government Code* §
26 845.6, for the failure to furnish or obtain medical care.

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1 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

2 As a separate and distinct affirmative defense, answering defendant alleges
3 that the plaintiff's claims are barred by the failure of plaintiff to timely comply
4 with the administrative claim provisions of California *Government Code* §§
5 911.2, 945.4, 945.6, 950.2 and 950.6.

6 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

7 As a separate and distinct affirmative defense, answering defendant alleges
8 that he is not liable pursuant to statute of operation of California *Government*
9 *Code* § 855.6 for any alleged injuries.

10 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

11 As a separate and distinct affirmative defense, answering defendant alleges
12 that he is not liable pursuant to statute by operation of California *Government*
13 *Code* § 856.4 for the failure to admit a person to a public medical facility.

14 **PRAYER**

15 WHEREFORE, this answering defendant prays that:

- 16 1. That plaintiff takes nothing by this action;
17 2. That answering defendant recovers his costs of defense incurred
18 herein, including reasonable attorneys' fees; and
19 3. For such other costs and further relief as the Court deems just and
20 proper.

21
22 Dated: March 5, 2021

SEKI, NISHIMURA & WATASE, LLP

23
24 By: /s/ GILBERT M. NISHIMURA
25 GILBERT M. NISHIMURA
26 JANET L. KEUPER
27 Attorneys for Defendant
28 JAMES SEXTON

DEMAND FOR JURY TRIAL

Defendant JAMES SEXTON hereby respectfully demands a trial by jury on all claims in the within action as provided by Federal Rule of Civil Procedure, Rule 38(a) and (b).

Dated: March 5, 2021

SEKI, NISHIMURA & WATASE, LLP

By: /s/ GILBERT M. NISHIMURA
GILBERT M. NISHIMURA
JANET L. KEUPER
Attorneys for Defendant
JAMES SEXTON

PROOF OF SERVICE
UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF
CALIFORNIA

Brown, Anthony v. County of Los Angeles
Case No.: 2:15-CV-02162 DDP (FFMx)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to this action. My business address is 605 W. Olympic Blvd., Suite 900, Los Angeles, California 90015.

On **March 5, 2021**, I served the document described as: **DEFENDANT JAMES SEXTON'S ANSWER TO PLAINTIFF'S COMPLAINT FOR DAMAGES; DEMAND FOR JURY TRIAL** on the plaintiff in the action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Anthony Brown, Sr., #V-79273
Facility C
Mule Creek State Prison
P.O. Box 409060
Ione, CA 95640

/ XXX / (BY MAIL) I placed the envelope for collection and mailing on the date shown above, at this office, in Los Angeles, California, following our ordinary business practices.

I am readily familiar with the office's practice of collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the U.S. Postal Service in a sealed envelope with postage fully prepaid.

/XXX/ (FEDERAL) I declare under penalty of perjury that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on **March 5, 2021** at Los Angeles, California.

/s/ STEPHANIE K. CHIN
Stephanie K. Chin